STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
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Telephone (505) 827-5800
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DR. SUSANNA M. MURPHY
SECRETARY OF EDUCATION

BILL RICHARDSON
Governor

October 12, 2010

Stephen Fresquez, Human Resources Director
Office of Human Resources
Public Education Department
Room 131
300 Don Gaspar
Santa Fe, NM 87501-2786

Dear Mr. Fresquez:

On or about October 5, 2010, I met in my office with Lonnie Hudson at his request. During that meeting Mr. Hudson conveyed to me some concerns he had, from an educator ethics viewpoint, with two Public Education Department ("PED") employees, namely,

While it was not fully clear to me what documentation he possessed or had accumulated or the precise scope of his concerns, he indicated to me that he had opened his own investigative file on

Because a person's reputation can be ruined by merely alleging that they are the target of an ethics investigation by PED and because this revelation by Mr. Hudson can reflect negatively upon the PED, the morale of PED employees and the leadership of PED, I am appointing you to conduct an investigation subject to the following:

1. Confer with Mr. Hudson to determine the nature of any written educator ethics complaints against either

2. Confer with Mr. Hudson to determine any ethical infractions he believes have been committed by either

3. Confer with Mr. Hudson to obtain copies of any documents he has acquired, possesses or knows to be in existence that support his belief or theory that either committed an educator ethics infraction;

4. Determine what the PED process is for making a formal ethics complaint and for opening an educator ethics file or inquiry on someone and whether the established process was followed regarding either

5. If there is an assertion, allegation or belief by Mr. Hudson that a professional license or license was/were issued erroneously by the PED to or supported by either

determine who issued that license, what process was used, whether established PED practices were followed, and whether the person(s) who issued the license has committed any educator ethics infractions;

6. Maintain the strictest confidences during this investigation and only communicate to me about incidental procedural issues but not any substantive matters;

7. Prepare a written confidential report addressed and delivered only to me detailing your findings;

8. Do not delegate any part of your investigation to anyone or involve your staff in this investigation;

9. Confer freely and as often as needed with Assistant General Counsel Roderick Ventura, and no other PED attorney, about any legal, regulatory or protocol issues you may have or that may arise during your investigation.

You may consider the following as potential witnesses or persons having some knowledge:

Lonnie Hudson	Phil Baca	Dr. Mary Rose C de Baca
Julia Rosa Emslie	Dr. Sheila Hyde	Lori Bachman
Bernadette Bach	Dr. Veronica C. García	

The foregoing list of potential witnesses does not foreclose you from considering any other present or past PED employees. After completing your investigation, please provide me and only me with a copy of your confidential report containing your findings. Thank you.

Yours truly,

Susanna M. Murphy, Ph.D.
Secretary of Education

SM

cc: Lonnie Hudson, Director, Educator Ethics Bureau, PED

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December 14, 2010

Dr. Susana Murphy, Cabinet Secretary
NM Public Education Department
300 Don Gaspar Avenue
Santa Fe, NM 87501-2786

Concerning Allegations of Misconduct With respect to PED's
and PED Licensed Employees

Dear Secretary Murphy:

I have concluded an internal investigation concerning allegations of misconduct. The allegations suggest the possible falsification of official records which would have led to the false issuance of administrative licenses which would be in violation of Section 9, Subsection (C), of 6.60.9.7 NMAC-Licensure Requirements, Code of Ethical Responsibility of the Education Profession. This investigation was predicated upon correspondence I received from you dated October 12, 2010 requesting that an internal investigation be conducted based on a meeting you previously had with Mr. Lonnie Hudson, Director of Educator Ethics, on or about October 5, 2010 which also outlined a list of potential witnesses.

The basis which led to this investigation were alleged statements made by a former Assistant Secretary of the Educator Quality Division, Dr. Mary Rose C de Baca (retired) who oversaw the Professional Development Bureau, Professional Ethics Bureau and the Professional Licensure Bureau . These alleged statements specifically named
and . The assertions she made through these statements suggested misconduct through the possible falsification of official records which may have occurred through the verification process of required documentation and or coursework verified by

This allegation would further suggest that the falsely verified documents for were presented to then Secretary of Education, Veronica C. Garcia (retired), as being factual and accurate. If true, this would have resulted in Secretary Garcia unknowingly signing off on an official document that would have lead to acquiring a NM Administrative license without meeting the requirements. Therefore, the issuance of a bogus administrative license permitted to qualify for the position of General Manager 1,
:, a position she currently holds. This position was previously held by

The issue of misconduct related to the process of obtaining an administrative license for current was never clearly defined. Since there was no direct reference to . in the issuance of this administrative license, the assumption was made through this investigation that another party would have had to be involved in order for a bogus license to have been issued to Therefore, the issuance of administrative license was also closely examined to insure compliance of licensure requirements.

During this formal investigation I conferred with Mr. Lonnie Hudson, Director of the Professional Educator Bureau, to determine the nature of any formal investigation(s) he had possibly launched; determine the formal process of making ethics complaints and determine if any ethics complaint(s) was filed, and if so, were the established processes followed in doing so.

During the formal investigation I conferred with Ms. Mary Lou Lovato, Professional Licensure Bureau Chief, and Ms. Elaine Martinez, former Professional Licensure Bureau Chief (retired),to determine if any professional licenses were issued erroneously by the PED or supported falsely by either determine who issued the license; what process was followed; determine if established PED practices were followed and determine if the person(s) that assisted in the issuance of a license and or received a license committed any educator ethics infractions and or violations of statue.

The investigation was conducted in accordance with lawful investigative techniques which include but are not limited to the examination of confidential personnel files and records; licensure applications and data base records and notes; interviews with appropriate personnel, and other evidence-gathering procedures as necessary under the circumstances.

Please reference the "Executive Summary" that details the investigation, findings and recommendations.

Truly,

Stephen Fresquez
Human Resources Manager

EXECUTIVE SUMMARY

Background

was first hired into the PED on April 18, 2005 as an Education Administrator-Advanced within the Bureau. This position of Education Administrator Advanced required a teaching license. Prior to her employment with the PED she applied for a teaching license through interstate reciprocity since she held an out-state license and experience. She received her level 2 teaching license (level required at that time) per her teaching experience which made her eligible for an administrative license. At that time she was hired she already held a valid provisional administrative license issued by the PED in 2004 and had completed the administrative program in 1983. This led to the issuance of the formal teaching and administrative licenses also issued in 2004 which are valid through 2013. (Exhibit-A)

was promoted on December 15, 2005 to the position of serving as the Bureau Chief for the . This position required the administrative license. On January 12, 2008 she was promoted into a position of . This position also required the administrative license. was most recently promoted on May 29, 2010 to another position serving as This position also requires an administrative license.

The alleged misconduct was directed towards a timeframe in the late spring of 2008 when was occupying the position of after vacating her previous position of in January of 2008.The assertion of misconduct suggests that she assisted in the false verification of documents for the purpose of assisting in obtaining an administrative license. Obtaining this license would have enabled to qualify for the , which was the same position previously vacated by . Since the verification and submission of documents alone would have not resulted in the issuance of any license, focus was also placed in the protocol followed by the Professional Licensure Bureau in the issuance of licensure to verify compliance.

was first hired into the PED on April 25, 2005 as an Education Administrator-Advanced position within the Bureau. At that time she was hired she held a valid teaching license which was a requirement of the position. She was issued a Pre-level 1 and a Pre-K-12 Administrative Internship License (License Number , on July 1, 2007 with an expiration date of June 30, 2010. The provisions of the internship license itself states that the requirements for continued licensure must be met no later than the expiration of the license, which in this case would be June 30, 2010.

was issued a Level 3-B Pre K-12 Educational Administrator License (Same License Number) on July 1, 2008 with an expiration date of June 30, 2017. was promoted into the , which was the position vacated by on July 26, 2008. Thus, the administrative license issued to was in effect for twenty-five (25) days prior to her promotion. (Exhibit B.)

was hired into the PED on April 13, 2004 into a position of The working title of the position was labeled as the

, but was later updated to reflect PED ' '. The primary function of this position is to create quality processes and operational systems, manage and assign all high level correspondence received by the Office of the Secretary and or the Office of the Governor and manage key meetings of the agency such as Executive Team (Division Heads and other key staff) and Leadership Team (Executive Team plus bureau chiefs as well as key staff) meetings. This position does not require a teaching or administrative license. currently holds an Educational Administrator License (License Number) which was issued by the PED on July 1, 2006. (Exhibit C.)

INTERVIEWS

On or about October 13, 2010, I interviewed Mr. Lonnie Hudson, Director of Educator Ethics. He started our interview by communicating a casual conversation he had on or about July or August of 2010 with his former supervisor, Assistant Secretary of Educator Quality, Dr. Mary Rose C de Baca (retired). He recalled that during this conversation Dr. C de Baca had mentioned to him that there were rumors going around that may have obtained their administrative license improperly through some form of irregularities inconsistent with the formal licensure process. Mr. Hudson stated that he didn't give much credence to her comment since he was confident that the licensure process was sound and he had no foundation to question the legitimacy of the current licensure process.

In his opinion the timing of her negative comment may have displayed an expression of her disappointment and disapproval of not being selected to fill the position of Deputy Secretary of Learning and Accountability. The timeframe of her comment came within a month or two of Dr. Hyde being selected to fill that position. Mr. Hudson stated that he had sat in on the interviews for the Deputy Secretary position that had been filled by Dr. Hyde and he agreed that she was the best qualified applicant to fill that position. Therefore, he treated Dr. C de Baca's negative comment as "spilled milk" for not being selected and he dismissed it as such.

Soon after, Mr. Hudson was having a casual conversation with Mr. Phil Baca, Director of the Professional Licensure Bureau. Mr. Baca also made reference to the licensure of . Mr. Hudson stated that he and Mr. Baca work closely together and they sometimes talk off the record concerning issues that may or may not have relevance to day to day work activities. Mr. Baca went on to state to Mr. Hudson that he recalled a request made directly to him by Dr. C de Baca requesting licensure documentation and information regarding the licensing of both individuals. Mr. Baca also stated to Mr. Hudson that he used to work in the Professional Development Bureau as an Education Administrator Advanced working under when she was the was his co-worker.

He proceeded to tell Mr. Hudson that when the Bureau Chief position in Professional Development Bureau became vacant, was advertised, and subsequently was filled by , he was uncertain as to how would have obtained the required administrative license. He was under the impression that she did not have the required years of experience in administration to qualify for it. When nothing adverse ever resulted from the request from Dr. C de Baca, Mr. Hudson figured that she could not discredit their licensure. Mr. Baca still thought it was odd that she would make such a request so close to her retirement. He was never quite sure where she was trying to go with it.

Mr. Hudson stated that after that conversation with Mr. Baca he then felt compelled to start looking into the licensure of . Since he was extremely busy with his normal investigative tasks, this was not a priority for him at the immediate time. As he requested and received licensure information for and , he was easily able to display that the normal licensure process for administrative license was followed. He brought to my attention college transcripts indicating a major in educational leadership with the successful completion of two educational internship courses.

In reviewing college transcripts with me, he was not able to locate the same type of internship course credits. This is what led him to suspect that perhaps something was wrong with the issuance of her license and that there may in fact be irregularities with how the

administrative license was issued to her. He then referenced statute, specifically Section 9, Subsection (C), of 6.60.9.7 NMAC-Licensure Requirements, Code of Ethical Responsibility of the Education Profession. What also concerned him was that within the licensure documents for was a Superintendent's Recommendation Form For Continuing Education (a PED official form used as a template for school districts for verifying that essential competencies are being met for recommended teacher and or administrative licensure).

The form had been signed by as the license holder/applicant on February 19, 2008. signed off on the document as the "employer" on April 4, 2008 and Secretary Garcia signed off as the "superintendent" on April 8, 2008. Mr. Hudson was unsure as to the proper utilization of the form within the PED. In addition, he further expressed concern of him personally proceeding with this type of investigation through his formal capacity given the high level of personnel it would encompass and the fact that ; was now his direct supervisor in the absence of an . That is why he had come forward to share this information directly with Secretary Murphy.

At that time I asked Mr. Hudson as to what stage he was in his investigation. He stated that he was in the very early stages of the investigation noting that he had only started to gather pertinent licensure information and had not conducted any interviews with any potential suspects or witnesses. He was prepared to release to me the licensure information he had gathered and turn over the investigation to me. Since he had previously discussed this issue with Secretary Murphy, he seemed to be pleased that he was being relieved from having to investigate this matter which involved several high ranking PED officials.

I then asked Mr. Hudson to explain to me what the formal process was to file an ethics complaint. He stated that most formal and informal complaints usually begin with conversation over the phone or in the form of a letter or though an official PED complaint form. He stated that usually with phone calls the callers are directed to complete the online Educator Ethics Complaint Form-Q. After I reviewed the form I saw that it clearly advises the reader that the purpose of the form is to file an ethics complaint with the PED concerning a licensee that is believed to have violated the Standards of Professional Conduct. I then asked Mr. Hudson if he had received any formal ethics complaints regarding these two licensees. He stated that he had not.

After meeting with Mr. Hudson it became very apparent to me that the primary goal of this investigation would be to determine if the essential competencies and indicators leading to the issuance of these administrative licenses are clear in administrative rule as it relates to PED employees, and if so, were they met and was the proper licensing procedures followed in the issuance of the administrative licenses for and . A follow-up interview was also conducted with Mr. Hudson on October 27, 2010 for the purpose of clarification.

On or about October 19, 2010 I interviewed . I explained to her that I was conducting a formal investigation involving possible allegations of her misconduct. I explained to her that information made available to me by the Professional Ethics Bureau and the Secretary of Education had prompted this investigation. I then again clarified to her that she had been identified in the allegation of misconduct. I stated to her that her only obligation to me was to be as honest as possible in her responses.

I further explained to that her response would be considered confidential but I could not guarantee confidentiality should litigation occur, if corrective action is necessary or if necessary to fully investigate the allegations further. I informed her to maintain the

confidentiality of our discussion and not discuss this matter with anyone as required by law and that failure to do so may violate the privacy interest of others and that any violation of this mandate of confidentiality may result in disciplinary action. In addition, I informed her that those individuals that made this information available to me have a constitutional and statutory right to do so. I informed her that under the law, these persons cannot be subjected to retaliation by her, any co-worker or supervisor for making allegations of misconduct. I informed her that retaliation may take many forms including, but not limited to, saying mean things to or about the individual, ostracizing the person, changing working conditions as a result of making a charge, or subjecting the individual to disciplinary action as a result of making a charge. I informed her that we all must respect the right to bring a complaint or make a charge. I informed her that she could not be subjected to retaliation for assisting me in this investigation and if she felt that she was being subjected to retaliation because she had assisted me, to please contact me immediately.

I stated to that the allegations that lead to this investigation were that she was instrumental in the false issuance of an Administrative License for . I explained to her that the allegation was first brought into light by Dr. Mary Rose C de Baca by claiming that there may have been irregularities in the issuance of licensure for and I explained to her that there was not a direct connection made to specifically tie her to , but there was a direct reference made to her regarding . I presented her with the completed Superintendent's Recommendation Form For Continuing Education for which was signed by her and submitted for final approval to then Secretary of Education, Veronica Garcia. I explained to her that this document that was the core piece of evidence that had relevance to the investigation. I informed her that the purpose of the investigation was to determine if the form was completed without first ensuring that the proper guidelines had been met pursuant to 6.60.3.9 NMAC before presenting it to the Professional Licensure Bureau for consideration of an administrative license.

I asked if she was familiar with the requirements for "alternative" administrator licensure that requires a post-baccalaureate degree, six years of administrative experience at the post secondary level with the completion of an internship of at least one full school year while holding the administrator internship license and working as an administrator in a school district, charter school, private school, or state educational program? She responded to this question, "Yes."

I asked if she was familiar with the licensure process requiring that only "after" the completion of the one-year internship, the candidate for alternative administrative licensure who has met PED-approved administrator competencies as verified to the PED by the candidates employer(in this case PED) would be issued an alternative level 3-B administrator license?

She responded, "At the time it was approved...yes. At that time the documentation was reviewed by Dr. C de Baca. I was not aware of the alternative licensure path option until Dr. C de Baca brought it up to me and . When Ms. Bernadette Bach was retiring, Dr. C de Baca felt that would be a good candidate for the position. Mary Rose suggested to and I that she should look into her pursuing the alternative licensure path as had Dr. Jerry Pitzl. Dr. C de Baca went through the requirements with I also worked with Mary Rose and , but not so much Ms. Martinez who was the bureau chief of Licensure at the time."

I asked if she believed that Secretary Garcia was also familiar with these requirements. She responded, "Yes. I was in her office when she signed it. I believe that she picked up the phone and contacted Dr. Mary Rose C de Baca directly before she signed the form. I believe

that Secretary Garcia was 100% sure that it was a valid verification based on Dr. C de Baca's own confirmation. This was a significant action and they both felt it was valid. I am sure Secretary Garcia contacted Dr. C de Baca to ensure compliance before she signed it."

I asked if she believed that was familiar with these requirements. She responded, "Yes, She had many conversations with Dr. C de Baca. I am not sure who actually processed the license."

I asked if she submitted a completed Superintendent's Recommendation Form For Continuing Education for for signature to Secretary Veronica Garcia without first ensuring that the internship requirement had been met? If yes, was the Secretary of Education aware of this? She responded, "I don't remember the internship but I recall the 6-years experience and the competencies. Wait a minute...I do remember something about an internship for 1-year. During that time the state PED experience would count as her internship. After the one year she would be issued the level 3-B license."

I communicated to that proof of meeting the required post-secondary experience and internship could not be found by Educator Ethics through their preliminary investigation nor could Human Resources through the assistance of agency personnel in the Licensure Bureau for this investigation. I asked her what evidence she could provide me that would indicate that the administrative license was not issued fraudulently or in error. This evidence would specifically prove that the internship portion of the licensure requirement had already been met before the administrative license was issued? She responded, "I believe she was already holding an internship administrative license in order to get the official license."

I asked if she understood the non-retaliation policy of the Agency. She responded, "Yes".

I asked if she understood the investigation process and what will happen from here? She responded, "Not yet." I proceeded to explain to her the investigative process too her.

I asked if she had any other questions or comments to add. She responded, "Secretary Garcia and I were assured competencies were met. The license was approved and issued in the Licensure Bureau. Secretary Garcia and I did not approve or issue the license."

I then reminded Dr. Hyde to keep what we have discussed confidential in order not to interfere with the investigation. I also stated that I could not promise to keep everything that she had told me confidential absolutely. I advised her that if the information we obtain indicates that disciplinary action should occur, then there may be legal proceedings over this and she may be called to testify. Because the allegations require PED to investigate, I advised her that I could not promise that all the information she provided would remain confidential, but that I would only share it with managers on a need to know basis, unless legal proceedings occur. In addition, I advised that in order to protect any witnesses and her from unnecessary gossip, I would not share the results of my investigation or the decision to pursue disciplinary action with her unless it involves her personally.

I asked if she had any questions. She responded. "Will processes be included in the investigation as to how the mentioning of this was made to the Educator Ethic Bureau or Licensure Bureau?" I told her that it would probably be included in the investigative report. She ended our interview by stating, "I find it interesting that Mary Rose would now bring this up

considering that she herself was trying to encourage and prepare to be qualified with an administrative license so she could qualify to apply for her position in the Professional Licensure Bureau."

I then thanked for her cooperation.

After the interview with I made the decision that it would not be in the best interests of the PED to continue on the path of interviewing all potential witnesses without first determining if a violation of administrative rule had in fact occurred. remained as a central figure in this investigation as it related to her possible falsification of an official record but the focus of the investigation was now shifting to the actual issuance of the licenses. It was clear to me that even if had indeed falsified a document either deliberately or in error, she was not the party responsible for issuing the licenses. This decision led me to confer directly with Ms. Mary Lou Lovato, Professional Licensure Bureau Chief.

On or about October 21, 2010 I met with Mary Lou Lovato. I asked for her to provide me her professional analysis and assistance in determining if a professional license or licenses had been issued either intentionally or erroneously by the PED and if document(s) may have been falsely supported by for or by anyone else in the PED for . I explained to her the confidential nature of this investigation and the importance of her not sharing our conversations with anyone.

I shared with her the information that had been provided to me by the Educator Ethics Bureau. She indicated that she would need to access her licensing database in order to research and confirm what process were followed at that time and would need to print out applications, licenses issued, and review notes in the database. She wanted to make it clear to me that current rules and regulations per administrative rule had changed and what was in current rule today may have not been in place at the time these licenses were issued.

On or about October 22, 2010 I met again with Ms. Mary Lou Lovato. At that time we went through both applications and paths for licensure for She confirmed that was licensed though the normal licensure path and was licensed through the alternative licensure path.

The following information was provided to me by Ms. Lovato regarding the administrative licenses for

Ms Lovato referenced the following administrative rule regarding the requirements for a standard administrative license which applied to the issuance of administrative license:

6.62 .2.8 REQUIREMENTS: Persons seeking standard licensure in educational administration pursuant to the provision of this rule shall meet the following requirements:

A. bachelor's degree and master's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 1986, an apprenticeship; the apprenticeship must:

(1) be completed at a college or university with an educational administration program approved by the "PED" and consist of a minimum of 180 clock hours to include time at the beginning and end of the school year; a passing grade on the apprenticeship will verify completion of the requirement; OR

(2) be completed under the supervision of a local school superintendent or a private school official at the school and consist of a minimum of 180 clock hours to include time at the beginning

and end of the school year, the local school superintendent will verify that the apprenticeship has met the PED's adopted competencies for educational administration; such verification will be considered completion of this requirement;

B. a candidate who entered an administrator preparation program on or before April 4, 2003, must teach while holding a valid level 3-A New Mexico teaching license for at least one school year; a candidate who entered an administrator preparation program prior to April 4, 2003, must hold a valid level 2 New Mexico teaching license; and ;

C. eighteen semester hours of graduate credit in an educational administration program approved by the public education department (PED); the eighteen semester hour program must address the PED's approved functional areas and related competencies in education administration; colleges and universities may offer these hours through their education administration, public administration, business administration, or other appropriate departments;

D. a candidate who applies for licensure in educational administration on or after the September, 2007 administration of the PED's specialty area licensure examinations shall take and pass the licensure test in administration in Paragraph (9) of Subsection B of 6.60.5 NMAC.

[6/15/98; 6.62.2.8 NMAC – Rn, 6NMAC 4.2.3.18.8 & A, 08-15-13; A, 06-15-16]

On or about November 22, 2010, Mr. Roderick Ventura, PED Assistant General Counsel and I met with Ms. Elaine Martinez (retired), former Bureau Chief of the Professional Licensure Bureau. Ms. Martinez was employed with the PED Professional Licensure Bureau for about 25 years prior to her retirement in May of 2010. The purpose of our meeting with Ms. Martinez was to gain a historical perspective as to how the PED had administered administrative rule as it pertained to the requirements for administrative internship licensure (6.60.3.11 NMAC) and the requirements for alternative administrative licensure(6.60.3.9 NMAC) for PED employees. She clarified that the current computerized system in the Professional Licensure Bureau could not specifically identify who in the bureau had issued a license since it only logs the names of employees who go in to verify and view licensure information. It cannot track who actually issues the license. In our meeting she wanted to address three separate issues. First she addressed the renewal of teaching and or administrative licenses for those who are PED employees. Secondly, she addressed those PED employees who earned their licenses through alternative means such as through an internship or temporary license who may have not met or who are currently not meeting governing rule.

In addressing the history of licensure renewal within the PED Ms. Martinez was forthcoming in stating that a formal process had been in place when the PED was still the State Department of Education under the then Superintendent of Public Instruction, Alan Morgan. This process was utilized prior to the PED tying the level of licensure to salaries and the 3-tier licensure system. She stated that back then there were six (6) very generic and vague competencies that teachers had to meet to renew their license. Since they were so generic, they could easily be met by PED staff. Mr. Morgan would sign off on the Superintendent's Recommendation Form. If the PED employee had not utilized their license for a period of time it would be accompanied by a notarized sworn statement from the applicant stating that they had not actively used their license for the term of the license, therefore they were unable to secure a verification of the required competencies for licensure renewal.

Ms. Martinez wanted to note that the administrative rules had changed since then and the PED had to honor current governing rules. In her opinion current administrative rule was not clear and processes did not adequately meet the needs of PED employees since classroom time was a requirement. She did not believe that the current administrative rule was intended for the purpose of PED employees to gain licensure. She did not identify any current PED employees that would have benefited from this previous process. She referenced the following NM

Teaching Competencies and administrative rule which talks about sworn statements which were utilized during that timeframe. Bolded text specifically identifies this process requiring a sworn statement:

6.60.6.11 EXCEPTIONS:

A. Exceptions for "exigent circumstances":

(1) The provisions of this paragraph shall apply to an individual holding a valid New Mexico license who, in exigent circumstances, is unable to secure a verification of the required competencies for licensure renewal.

(2) As used in this paragraph, "exigent circumstance" means:

(a) the non-availability of the superintendent of the local school district, charter school administrator or of an authorized representative of the state institution, charter school, or private school by which the applicant has been most recently employed; or

(b) the licensed individual has not been employed in elementary or secondary education during the term of the license(s); or

(c) when an intern or level 1 teacher has not been employed as the teacher of record in a New Mexico or out-of-state public school district, charter school or combination of public school districts or charter schools for the total number of years authorized by the license.

(3) **A person seeking to renew the current level of licensure who, in exigent circumstances, is unable to secure verification of the required competencies shall submit a sworn statement asserting the exigent circumstance(s).** In the situation of Subparagraphs (a) (b) of Paragraph (2) of Subsection A of 6.60.6.11 NMAC the applicant may be granted a five-year level 1 license. In the situations in Subparagraph (c) of Paragraph (2) of Subsection A of 6.60.6.11 NMAC, an intern applicant may be granted a one-time license renewal and a level 1 teacher may be granted no more than three level 1 licensure renewals, in both cases with effective periods equal to the amount of time of non-employment, except that any period of non-employment less than a full school year, but more than ninety (90) days shall constitute a full school year. Level 1 teachers who remain unemployed after their last level 1 license renewal may renew subsequent licenses at level 1 following Subparagraph (b) of Paragraph (2) of Subsection A of 6.60.11 NMAC, but any previous years of teaching experience counted toward advancement to level 2 licensure become void.

B. Exceptions for persons unable to demonstrate "exigent circumstances": Except for individuals who held only an internship license, a person seeking licensure renewal pursuant to this rule and who cannot show exigent circumstances for the lack of verification of the satisfactory demonstration of the competencies required by the PED or whose level 1 license has expired or lapsed may, upon the expiration of a period of three years from the date of expiration of the valid New Mexico license, apply to the director for a level 1 license. Level 1 licenses granted pursuant to this paragraph shall be subject to advancement at level 2 in the same manner as other such licenses.

C. A person seeking level 2, 3-A, or 3-B licensure renewal pursuant to this rule who has worked in education but not in an elementary or secondary school setting or who has retired from or has not continued to work in elementary and secondary education under a New Mexico license during the effective period of the license shall submit a sworn statement asserting that the person has not worked in an elementary or secondary school setting during the effective period of the license, and may renew the license at the current level held.

[6.60.6.11 NMAC - Rp 6.60.6.9 NMAC, 09-30-03; A, 08-31-04; A, 04-29-05; A, 05-31-06; A, 10-31-07; A, 06-15-09]

When Ms. Martinez addressed those PED employees who earned licenses through the "alternative" path which may have included an internship license, she mentioned the names o , Mr. Tomas Lopez, (Special Education Bureau) and Ms. Marlene "Yolanda" Valencia (Professional Development Bureau). Ms. Martinez clarified that licensure was for administrative and both Mr. Lopez' and Ms. Valencia's were for teaching.

apprenticeship program, gained administrative work experience in a post-secondary institution or gained work experience teaching in the classroom.

We asked Ms. Martinez to review the documentation which led to the issuance of licensure for both Ms. Martinez was easily able to follow the process that justified the issuance of teaching license in 1993; continuation of licensure in 1996 and 1999, and the application and granting of an administrative license in 2006 which was obtained using the normal licensure requirements requiring an internship though a PED approved administrative program. She confirmed that nothing in the issuance of licenses appeared to be out of the ordinary.

When reviewing documentation, Ms. Martinez made it very clear that upon the issuance of the administrative license in 2008 by Ms. Bernadette Bach,

Ms. Martinez believed

It was concluded that there was not enough clarity in administrative rule therefore it allowed for misinterpretation of the rule which could go either way. Ms. Martinez referred to this lack of clarity in rule as a "loophole" in the system that benefited PED employees. By following this process was the first PED employee to ever be issued an administrative license through this process. Ms. Martinez also concluded that she could see how

Ms. Martinez recommended that the PED revise the administrative rule to include circumstances specifically for PED employees. This revision would clarify that administrative work experience gained while earning the masters degree would suffice for the post-secondary work experience. She also thought that it would be important

", encompass Since it would be difficult for these competencies to be met while employed at the PED, the PED could allow for the experience to be gained off-site in order to ensure that all required competencies were met. We all agreed that this type of requirement would need to involve the allowance of PED employees to receive an extended leave of absence or if on PED work time, volunteer the administrative services to a post-secondary institution. The difficulty in doing this was also discussed and implied reasoning to just leaving the existing administrative rule alone.

In going back to the alternative pathway for the teaching licenses for Mr. Lopez and Ms. Valencia,

Ms. Martinez stated that Mr. Lopez applied for the special education internship license and vocational rehabilitation license back in 2006 through the alternative pathway program through SFCC and he was issued both licenses for 3 years from 2006-2009. She stated that he then submitted the renewal application and the licenses were renewed for the periods of 2009-2012.

Since both and were not the scope of this investigation, I have taken specific measures to address these concerns and track the continued licensure of both individuals. I will not further elaborate on these licensees in this investigation.

The following analysis was provided to me by Ms. Lovato regarding the administrative licenses for and .

Professional Licensure Analysis-

holds a valid Educational Administration license. The license was issued by former Licensure Bureau Chief, Elaine Martinez (retired). completed her degree in in 2006 through approved administrative program. The program that completed included hours in The rule that was in place at that time stated that a candidate who entered an administrator preparation program prior to April 4, 2003, was required to hold a level 2 teaching license, which held, as she started her administrative program in Spring 2002. Her administrative license was issued to her as she completed all the requirements for the teaching and administrative licenses. All rules and regulations were followed as stated on educational administration governing rule at the time the administrative license was issued.

Professional Licensure Analysis-

completed her Bachelor of Arts degree from in 1992 and completed a in 2004. She initially applied for the educational administrative internship license. The internship license was issued by former Professional Licensure Director, Bernadette Bach (retired). This type of license requires 6 years of administrative experience in the post secondary level. She submitted post-secondary experience from and and was given credit for her administrative employment with the PED. The alternative administrator license requires that they complete an internship of at least one full school year while holding this license and working as an administrator in a school district, charter school, private school or state agency education program. Upon completion, when she met PED approved administrator competencies which were verified by the candidate's employer, she was issued a 3-B educational administration license. The Superintendent's Recommendation form (verifying she met competencies) was completed, verifying that she had met administrative competencies, therefore, was issued the administrative license. All rules and regulations were followed as stated on educational administration governing rule at the time the administrative license was issued.

Ms. Lovato referenced the following administrative rule regarding the requirements for an administrator internship license:

6.60.3.11 REQUIREMENTS FOR ADMINISTRATOR INTERNSHIP LICENSURE: A three-year, internship license in educational administration may be issued to any candidate who holds at least a master's degree and has at least six full school years of experience in administration at the post-secondary level.
[6.60.3.11 NMAC - N, 10-31-07; A, 06-15-09]

HR Analysis-

graduated with a , Degree with a major in in the summer of 2006. started the education administrator program in 2002. She

was issued a New Mexico level 2 teaching license in 2003. She met the requirements of Subsection A of 6.62.2.8 NMAC by completing an educational administration program approved by the PED and received a passing grade of "S" on two apprenticeships. She met the requirements of Subsection C by possessing the 18-credit hours in education. Therefore, she met the criteria of 6.62.2.8 NMAC leading to the issuance of the Level 3-A Instructional Leader K-8 Elementary License and Level 3 Pre K-12 Administrative License (License Number) issued on July 1, 2006 with an expiration date of June 30, 2015. I concur with the validly of the issuance of this license as stated by Ms. Lovato.

HR Analysis-

In trying to capture the true intent of administrative rule 6.60.3.9 NMAC as it relates to alternative administrative licensure, I have concluded that the rule contains gray areas that clearly open the door for misinterpretation. The administrative rule does not dictate in which order or fashion the post-baccalaureate administrative experience should be earned (before or after the issuance of the master's degree) since an administrative license is not required at post-secondary institutions but administrative type positions do require a bachelor's degree. In addition, the administrative rule also does not preclude the administrative experience from being obtained while earning the master's degree.

The first question in this matter is whether or not the type of administrative work experience earned as a , and as an Education Administrator-Advanced at PED all fell within the tenets of "administrator" per this rule. Per the Bureau of Labor Statistic's Operational Outlook Handbook, 2010-2011 Edition for Education Administrators and review of college and university job descriptions, college administrators can hold a variety of titles, and perform both general administrative duties and specialized academic tasks. Per this criterion administrators may be responsible for recruiting new students, developing academic curriculum or managing extracurricular activities. They may also oversee alumni relations and help plan commencement ceremonies.

Although education requirements vary based on the institution and type of position, all college administrator positions require at least a bachelor's degree, which possessed at the time she received administrative work credit while at and College provosts are responsible for selecting new faculty and making tenure decisions and also creating academic policies and plan budgets. Provosts typically supervise academic chairpersons and deans of individual colleges. For the purpose of this investigation, I believe that the intent of the administrative rule regarding alternative licensure through post-secondary experience was intended to broaden the scope of opportunity for entering into K-12 administration. I do not believe that the intent of the administrative rule was to isolate or minimize the type of post-secondary administrative experience to only allow for persons in provosts and or dean positions to benefit. Therefore, I conclude that the post-secondary administrative experience earned at and is valid experience for administrative internship licensure and administrative licensure. The question still remains if whether or not the PED work experience suffices for post-secondary work experience and if it meets the PED approved administrator competencies as verified by the PED, who also happened to be the employer.

The administrative rule is clear in stating that an applicant for alternative administrator licensure who has earned a post-baccalaureate degree and has at least six years of administrator

experience at the post-secondary level must complete an internship of at least one full school year and hold an administrator internship license while working as an administrator in a school district, charter school, private school or state agency education program. The rule further states that upon completion of the internship the candidate for alternative licensure who has met PED-approved administrator competencies as verified by the PED by the candidate's employer will be issued an alternative level 3-B administrator license.

I was able to verify that was issued an internship administrative license based on meeting the six years of administrative experience which encompassed the PED work experience. After reviewing past employee evaluations PED employment of 2-years and 2-months as an Education Administrator specifically met all the PED-approved administrator competencies as verified by the PED, with the PED as the employer, resulting in the issuance of the level 3-B administrator license. The PED employment would have had to have met administrative rule 6.62.2.10 NMAC encompassing all of the following competencies and indicators: Ethnical Leadership; Visionary Leadership; Instructional Leadership; Multicultural Leadership; Disability Leadership; Leadership in Community relations; Political Leadership; Legal and Fiscal Leadership and Personal and Professional leadership.

If the PED work experience was accepted and the competency requirements were waived, the following information was used to issue both the administrative internship license and the administrative license:

Ms. Lovato and Ms. Martinez explained to me that although it was not clearly defined in administrative rule, it is PED's current and past practice for PED work experience (requiring a teaching license) to count towards work experience in administration at the post-secondary level. Therefore, based on this interpretation of administrative rule, met the criteria for administrator internship licensure per administrative rule 6.60.3.11 NMAC which was issued to her on July 1, 2007 and administrator licensure per administrative rule 6.60.3.9 NMAC which was issued to her on July 1, 2008.

Ms. Lovato and Ms. Martinez referenced the following administrative rule regarding the requirements for alternative administrator license:

6.60.3.9 REQUIREMENTS FOR ALTERNATIVE ADMINISTRATOR LICENSURE: Professional administrator education requirements - An applicant for alternative administrator licensure who has earned a post-

baccalaureate degree and has at least six years administrator experience at the post-secondary level must complete an internship of at least one full school year while holding an administrator internship license and working as an administrator in a school district, charter school, private school or state agency education program. Upon completion of the internship the candidate for alternative administrator licensure who has met PED-approved administrator competencies as verified to the PED by the candidate's employer will be issued an alternative level 3-B administrator license
[6.60.3.9 NMAC - N, 10-31-07; A, 06-15-0

, continued to remain employed with the PED as an Education Administrator Advanced through July 25, 2008 which for the purposes of licensure, was considered as working in a "state agency education program." Therefore, this work experience was gained working at least one full school year while holding the administrator internship license. The specific timeframe of July 1, 2007 to July 1, 2008 would have met the one year working requirement leading to the issuance of the Level 3-B Pre K-12 Educational Administrator License on July 1, 2008 (License Number) with an expiration date of June 30, 2017.

Investigative Findings

Through the investigative process I was not able to substantiate the allegation of willful wrongdoing or violation(s) of administrative rule by any past or current PED employees. What I was able to identify were areas in administrative rule(s) 6.60.3.9 NMAC-REQUIREMENTS FOR ALTERNATIVE ADMINISTRATOR LICENSURE and 6.60.3.11 NMAC-REQUIREMENTS FOR ADMINISTRATOR INTERNSHIP which may allow for more than one interpretation. There is no specific language in administrative rule that addresses what "level or type" of post-secondary administrative work experience is acceptable. There is also no specific language in administrative rule that addresses PED employment or PED work experience as it related to licensure.

Therefore, there is no specific language that addresses the allowance or disallowance of PED work experience to count towards post-secondary experience.

In one interpretation of administrative rule, it would allow for the six (6) years in post-secondary administrative work experience to be earned while attending college (towards the masters degree) and working for the same college in any position that falls under administration. This experience can also be obtained through employment at the PED since the position resides at the PED and is titled as an "Education Administrator." These positions often work directly with school district administrators. Although not stated in administrative rule, this work experience can either be verified as meeting the PED established competencies and indicators or waived by the PED since the PED is the employer, the verifier and the issuer of administrative licenses. This interpretation would make it easier for the experience to be obtained and makes this administrative rule more flexible.

In another interpretation of administrative rule, only top-level administrative experience, such as that gained while employed as a provost, dean, or other high-level position in a post-secondary institution would count towards post-secondary work experience. PED work experience would not count towards the six (6) years of post-secondary experience since the PED currently has no mechanism in place either though job structure or through the employee evaluation process to confirm or deny that PED employees in Educator Administrator positions are in fact meeting the required administrative competencies and indicators. This interpretation of administrative rule makes the alternative administrator licensure process very restrictive.

that the PED does not allow for employees to be paid while gaining this type of work experience elsewhere, it would be virtually impossible for a PED employee with a teaching license to obtain the required experience for administrative licensure if they do not already posses it. It could also potentially hinder a PED employee's career advancement into the level of administration within school districts and the PED. The only option through this interpretation of administrative rule would be to gain the required work experience by leaving PED employment and seeking employment elsewhere at a post-secondary institution. Given

Recommendations

1. The Secretary of Education provide an interpretation of **6.60.3.9 NMAC-REQUIREMENTS FOR ALTERNATIVE ADMINISTRATOR LICENSURE** and **6.60.3.11 NMAC-REQUIREMENTS FOR ADMINISTRATOR INTERNSHIP** in order to determination if the PED Professional Licensure Bureau correctly or incorrectly credited the work experience of ' ' for both the post-secondary level work experience and at the PED work experience.

2. Per Secretary of Education's interpretation of above stated administrative rules, the staff of the Educator Ethics Bureau, specifically Mr. Lonnie Hudson, receives guidance in the issuance of PED licensure, specifically through the alternative licensure path and the issuance of administrative internship licenses which often lead to the issuance of the administrative license. This guidance would help him and his staff (during preliminary investigations) to correctly identify circumstances where an internship program may not be evident in a college transcript through the application process but may still be permitted through the internship licensing process of the PED per administrative rule. In addition, the Educator Ethics Bureau staff should become familiar with current PED internal licensing processes and past practices which may permit for the substitution of post-secondary employment with PED employment while holding a valid internship license, therefore fulfilling the requirements of both the administrative internship license and the administrative license.

3. The PED consider an amendment to **6.60.3.9 NMAC-REQUIREMENTS FOR ALTERNATIVE ADMINISTRATOR LICENSURE** and **6.60.3.11 NMAC-REQUIREMENTS FOR ADMINISTRATOR INTERNSHIP** or provide for an addition to the administrative rule that would specifically address PED employment and how such employment will be counted towards post-secondary work experience through the alternative licensure path and administrator internship process, if so deemed valid after the Secretary of Education's interpretation of above stated administrative rules. This amendment or addition to rule would need to include the process to be followed in either meeting or waiving the PED approved administrative competencies and indicators.